

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	4:03CR3046
)	
Plaintiff,)	MEMORANDUM
vs.)	AND ORDER
)	
JOHN S. WAYS, JR.,)	
)	
Defendant.)	

This matter is before the court on a notice of appeal filed by the defendant, appearing pro se, on October 15, 2007 (filing 135), and on a memo from the clerk of the court regarding the defendant's ability to proceed in forma pauperis on appeal (filing 136). The appeal concerns an order that was entered by this court on July 9, 2007 (filing 125), denying a motion for review of the defendant's plea agreement (filing 124). The defendant previously attempted to appeal from that order, or from the court's denial of a motion for reconsideration of that order, but the appeal was dismissed as untimely by the United States Court of Appeals for the Eighth Circuit on September 13, 2007. (Filings 133, 134.) The subsequently filed appeal therefore is not taken in good faith, and the defendant is not permitted to proceed in forma pauperis. *See* Fed. R. App. P. 24(a)(3)(A).

Accordingly,

IT IS ORDERED that:

1. Pursuant to Fed. R. App. P. 24(a)(3)(A), the court certifies that the defendant's appeal (filing 135) is not taken in good faith because it is repetitive and untimely.

2. Pursuant to Fed. R. App. P. 24(a)(4)(B), the clerk of the court shall send a copy of this memorandum and order to the defendant, personally, and to the Clerk of the United States Court of Appeals for the Eighth Circuit.

October 17, 2007.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge